

UNITED STATES OF AMERICA  
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;  
Sudeen G. Kelly, Marc Spitzer,  
Philip D. Moeller, and Jon Wellinghoff.

Bluewater Gas Storage, LLC

Docket No. CP06-351-002

ORDER GRANTING REHEARING

(Issued December 28, 2006)

1. On November 22, 2006, Bluewater Gas Storage, LLC (Bluewater) filed a request for clarification and rehearing of the Commission's October 27, 2006 Order Issuing Certificates, *inter alia*, to authorize Bluewater's use of its existing natural gas storage facilities for interstate services subject to section 7 of the Natural Gas Act and the Commission's jurisdiction.<sup>1</sup> Bluewater seeks clarification of the October 27 Order's requirement that Bluewater apply the Commission's Creditworthiness Policy Statement<sup>2</sup> for purposes of non-creditworthy customers' posting of security for the value of loaned gas.<sup>3</sup> Bluewater seeks rehearing of the October 27 Order's finding that two business days is too short a time to require a non-creditworthy customer that has already posted security to post additional security when increases in gas market prices increase the value of loaned gas.

2. The Commission is granting rehearing and providing clarification as discussed herein.

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<sup>1</sup> *BGS Kimball Gas Storage, LLC and Bluewater Gas Storage, LLC*, 117 FERC ¶ 61,122 (2006).

<sup>2</sup> *Policy Statement on Creditworthiness for Interstate Natural Gas Pipelines and Order Withdrawing Rulemaking Proceeding* (Creditworthiness Policy Statement), 111 FERC ¶ 61,412 (2005).

<sup>3</sup> Bluewater's request fashioned as a request for clarification seeks relief that goes beyond the scope of clarification. Therefore, the Commission is treating the request as a request for rehearing.

**Time for Non-Creditworthy Customers to Post Security for Loaned Gas**

3. The Commission's Creditworthiness Policy Statement<sup>4</sup> requires that a service provider afford a customer that becomes non-creditworthy five business days following notice from the service provider to post security equivalent to one month's worth of service charges and thirty days following such notice to fully comply with the pipeline's tariff's security posting requirements. The Commission's October 27 Order required Bluewater to make section 31.5 of its General Terms and Conditions consistent with the Creditworthiness Policy Statement's timeline for giving customers that become non-creditworthy reasonable time to post security.

4. Because the value of gas loaned to a customer is not literally a "service charge," Bluewater states that it is unclear whether the Commission intended to require that Bluewater give a customer that becomes non-creditworthy five business days or thirty days to provide security for the value of gas that Bluewater has loaned to the customer. Bluewater requests that the Commission clarify that its intent was that Bluewater afford such customers five business days, not thirty days, to provide collateral for loaned gas.

5. As Bluewater points out, the Creditworthiness Policy Statement does not specifically address security for the value of gas loaned by a service provider to a customer. The Commission also recognizes, as emphasized by Bluewater, that a pipeline or storage provider loaning gas is at risk from the date gas is borrowed and that the service provider's risk changes each day as market conditions change. Therefore, the Commission finds that it is reasonable for Bluewater to require a customer that becomes non-creditworthy to post security for the value of previously loaned gas within five business days following notice, consistent with the Creditworthiness Policy Statement's requirement that customers that become non-creditworthy be afforded five business days to post advance payment to cover one month's service.

6. Since Bluewater's request on this issue goes beyond the scope of clarification, the Commission will grant rehearing to authorize Bluewater to provide in section 31.5 of its General Terms and Conditions that a customer that becomes non-creditworthy must post security for the value of outstanding loaned gas within five business days.

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<sup>4</sup> *Policy Statement on Creditworthiness for Interstate Natural Gas Pipelines and Order Withdrawing Rulemaking Proceeding* (Creditworthiness Policy Statement), 111 FERC ¶ 61,412 (2005).

**Posting of Additional Security when the Value of Loaned Gas Increases**

7. Because the market price of gas may increase after a non-creditworthy customer has posted security for loaned gas based on the value of the gas at the time of the loan, Bluewater also seeks rehearing of the Commission's October 27 Order with respect to the posting of incremental security by such customers when prices rise before the loaned gas has been repaid in kind. Bluewater's original application proposed to provide in section 31.7 of its General Terms and Conditions that a non-creditworthy customer that posted security at the time of a gas loan be required to post additional security within two business days if gas prices increase before the gas is repaid, increasing the value of the outstanding loaned gas.<sup>5</sup> Bluewater asserts that the Commission erred in rejecting Bluewater's proposal and requiring, instead, that Bluewater afford such customers five business days to post additional security to account for increases in the value of loaned gas.

8. Bluewater argues that two business days for a non-creditworthy customer to post additional security for loaned gas when gas prices increase is reasonable in view of the risks that Bluewater faces as a lender of gas to a non-creditworthy customer. If a customer fails to return loaned gas, Bluewater explains that it must purchase replacement gas at market prices, potentially increasing its exposure significantly if the market moves adversely. Therefore, Bluewater asserts that it will not have adequate protection if it is required to give non-creditworthy customers five business days to post additional security when the market value of loaned gas increases.

9. To distinguish the basis for the Creditworthiness Policy Statement's requirement that non-creditworthy customers be given five business days to post advance service charges, Bluewater points out that a service provider's risk exposure with respect to non-payment of service charges is fixed, since service charges do not change due to price movements in gas markets. In contrast, Bluewater emphasizes, the risk that a service

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<sup>5</sup> For purposes of determining the amount of additional security that a non-creditworthy customer would be required to post if gas prices increase after the customer has been loaned gas, Bluewater state in its certificate application that it would redetermine the value of loaned gas each day, using the customer's loaned gas balance for the day and the then-current market price, *e.g.*, the Mich-Con City Gate Index applicable to the day. Bluewater proposed to require a customer to post additional security if a change in the market value of loaned gas is sufficient to increase the customer's security posting obligation by 10 percent over the amount of security already posted by the customer. Bluewater's May 26, 2006 application, Exhibit P at *pro forma* Original Sheet No. 150. The Commission's October 27, 2006 did not require Bluewater to modify this methodology.

provider faces when it loans gas is akin to the risks involved in buying and selling gas for which prices can increase or decrease quickly.<sup>6</sup>

10. As emphasized by Bluewater, the Creditworthiness Policy Statement was designed with regard to pipelines' and storage providers' services charges, and is not directly applicable to the issue of the posting of additional security by non-creditworthy customers that have previously posted security for loaned gas. The Commission recognizes that commodity price changes can occur quickly in volatile gas markets. Therefore, the Commission finds that Bluewater has provided a compelling argument that when a gas storage provider lends gas and gas prices subsequently increase, the storage provider's financial exposure and risk can increase significantly between the time a non-creditworthy shipper is notified that it needs to provide additional collateral and the date by which the additional collateral must be posted.

11. In view of the above considerations, the Commission will grant rehearing to allow Bluewater to provide in section 31.7 of its tariff that when non-creditworthy customers borrow gas under Bluewater's Rate Schedules FL and IL and post security based on the value of the gas at the time of the loan, such customers must post additional security to cover increases in the market value of the loaned gas, based on the methodology in section 31.7, within two business days of being provided notice by Bluewater.

The Commission orders:

Rehearing is granted, as discussed herein.

By the Commission.

( S E A L )

Magalie R. Salas,  
Secretary.

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<sup>6</sup> In this regard, Bluewater notes that the NAESB Model Credit Support Addendum is used widely by gas marketers and commodity traders and provides for a daily calculation of a seller's exposure to the buyer's credit and provides for adjustment of a customer's posted security any time a specified threshold is exceeded. As to timing for the posting of additional collateral, Bluewater states that the NAESB Model Credit Support Addendum also protects the seller by requiring the party presenting the credit risk to provide additional security in a timely manner, which may be in as little as one business day. *Citing* NAESB Model Credit Support Addendum, Option A, Paragraph 4.